proteins, DNA, chemotherapy drugs and angiogenesis factors) to a bone site. (*See*, Spievack Abstract) The device includes a collagen sponge 30 located in a hollow center cavity 25 which is saturated with the biologically active substance. A physician depresses an activation handle 38 to compress sponge 30 which in turn, forces the biologically active substance out of the device through vias 22 (Column 3, lines 23-67). The device further includes a catheter 34 or cannulation 53 which carries the biologically active substance to and from the sponge 30.

Applicants' amended claim 1 recites a device "for forming fixation masses" comprising a "cannula configured to receive a fixation substance;" and "at least one slot . . . for delivery of said fixation substance in close proximity to a cortex portion of said bone." Spievack fails to disclose "a cannula that is configured to receive a fixation substance." Spievack's primary objective is "to reduce the need for further invasive procedures [to the bonesite] by delivering biologically active substance, such as therapeutic drugs." (Column 1, lines 22-24) Configuring the device, and more particularly, the cannula, for delivery of a fixation substance is not contemplated by Spievack, because Spievack does not disclose or even suggest a device for forming fixation masses about the bone.

Applicants' independent claim 10 recites "a bone anchoring device" comprising, among other elements, "a cannula suitably configured to internally deliver an anchoring substance". . . "to form an anchoring mass. . ." Spievack fails to disclose "an anchoring device . . . to form an anchoring mass." Spievack neither teaches, suggests or claims each and every element of claim 10.

Therefore, in light of the above remarks, Applicants submit that claims 1-22 are patentably distinct over the disclosure of the Spievack reference and respectfully request the

withdrawal of the Section 102 rejection. Likewise, new claims 23-47 are believed to be allowable over the prior art of record for among other reasons, the reasons as just suggested.

In conclusion, the Applicants respectfully submit that all of the pending claims and newly presented claims fully comply with 35 U.S.C. §112. Upon review of the prior art made of record, Applicants submit that all of the pending claims are allowable. Further, Applicants believe that the pending claims are allowable over the references disclosed in the accompanying IDS. The April 26, 2000, IDS reflects a recent communication from a foreign patent office in a counterpart foreign application. Reconsideration of the application and allowance of all pending and newly presented claims is earnestly solicited. Should the Examiner wish to discuss any of the above in greater detail or deem that further amendments should be made to improve the form of the claims, then the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

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